

Let me start by saying that I am deeply concerned about the proposal for requiring a so-called Broadcast Flag. In the greatest sense this is a wholesale removal of fair use rights that consumers have enjoyed since the dawn of the Constitution. At its most finite it is a forced march for all consumer and PC electronics companies toward a government mandated but Entertainment industry run lock box. Given the mandate of the government is "for the people, by the people" this plan seems to ignore the most basic fundamentals of free speech and consumer rights.

Historically, the law has allowed for those not affiliated with creating content to come up with new, unanticipated ways of using it. For example, Sony invented the modern VCR -- a movie studio did not. (Sony did not own a movie studio at the time.) Diamond Multimedia invented the MP3 player -- a recording label did not. Unfortunately, the broadcast flag has the potential to put an end to that dynamic. Because the broadcast flag defines what uses are authorized and which are not, unanticipated uses of content which are not foreseeable today are by default unauthorized. If we allow the content industry to "lock in" the definition of what is and is not legitimate use, we curtail the ability for future innovation - unanticipated but legal uses that will benefit consumers.

I am a law-abiding consumer who believes that piracy should be prevented and prosecuted. However, if theoretical prevention comes at the cost of prohibiting me from making legal, personal use of my content, then the FCC should be working to protect all consumers rather than enable those who would restrict consumer rights. In the case of the broadcast flag, it seems that it will have little effect on piracy. With file-sharing networks, a TV program has only to be cracked once, and it will propagate rapidly across the Internet. So, while I may be required to purchase consumer electronic devices that cost more and allow me to do less, piracy will not be diminished. Moreover, off-shore industries in Asia will most certainly build non-flag watching hardware, making the US a nation of "have nots" whereas the rest of the world will have the option to do what they wish. This will guarantee higher prices for the US consumer and will certainly hurt free trade.

In closing, I urge you to require the content industry to demonstrate that its proposed technologies will allow for all legal uses and will actually achieve the stated goal of preventing piracy. If they cannot, I urge you not to mandate the broadcast flag.